

BEFORE

THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 91-628-T - ORDER NO. 93-84

January 26, 1993

IN RE: Application of Family, Incorporated DBA ) ORDER  
C & C Used Furniture and Moving Service, ) GRANTING  
803 Main Street, Myrtle Beach, SC 29577, ) RESTRICTED  
for a Class E Certificate of Public Con- ) APPLICATION  
venience and Necessity. )

This matter is before the Public Service Commission of South Carolina (the Commission) on the Application of Family, Incorporated DBA C & C Used Furniture and Moving Service (the Applicant or C & C ), filed on November 14, 1991, for a Class E Certificate of Public Convenience and Necessity<sup>1</sup> to transport property as follows:

HOUSEHOLD GOODS, AS DEFINED IN R.103-211(14): Between points and places in South Carolina.

Subsequent to the initiation of this proceeding, the Executive Director of the Commission instructed the Applicant to cause to be published a prepared Notice of Filing in certain newspapers of general circulation in the State of South Carolina. The Notice of Filing indicated the nature of the Application and advised all interested parties desiring to participate in the proceeding of the

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1. "A class E motor carrier is a common carrier of property by motor vehicle which does not operate upon any particular route or particular schedule and which is commonly known as an irregular route common carrier." 26 S.C. Regs. 103-114(1976).

manner and time in which to file the appropriate pleadings. The Notice of Filing was duly published in accordance with the instructions of the Executive Director. A Petition to Intervene was filed by Nilson Van & Storage (Nilson).

A hearing was held at the Offices of the Commission on January 14, 1993. The Honorable Henry G. Yonce, presided. The Applicant was represented by James Coffas, Esquire; the Intervenor was represented by Robert T. Bockman, Esquire; and the Commission Staff was represented by Marsha A. Ward, General Counsel.

Bert Weidburg, owner of C & C, and Irene Rousseau testified on behalf of the Applicant. David Nilson testified on behalf of the Intervenor, Nilson.

After full consideration of the testimony presented and the applicable law, the Commission makes the following findings of fact and conclusions of law:

#### FINDINGS OF FACT

1. According to S.C. Code Ann. §58-23-330 (Cum. Supp. 1992), "[a]n applicant applying for a certificate... to operate as a motor vehicle common carrier may be approved upon showing... that the applicant is fit, willing, and able to perform appropriately the proposed service. If an intervenor shows or if the [C]ommission determines that the public convenience and necessity is being served already, the [C]ommission may deny the application." The South Carolina Supreme Court has held that while an intervenor's testimony that its business will be adversely affected by the increased competition produced by an increased number of motor

carriers is relevant, such testimony "is not determinative and 'should not in itself defeat an application for additional services.'" Welch Moving and Storage Co. v. Public Service Commission, 301 S.C. 262, 391 S.E.2d 556, 557 (1990), citing Greyhound Lines, Inc. v. South Carolina Public Service Commission, 274 S.C. 161, 166, 262 S.E.2d 18, 21 (1980).

2. Mr. Weidburg, owner of C & C, testified that he had ten years experience in the household goods moving business through his furniture store operations, as well as through interstate household goods moves. C & C became aware of the necessity of receiving authority from the Commission after being cited by a Commission Transportation Division inspector for not having proper authority. The Company does have Interstate Commerce Commission (ICC) authority to transport household goods on an interstate basis.

3. According to the Application, C & C has a net worth of \$54,937, C & C agrees to operate in compliance with the Commission's statutes and regulations, and C & C is aware of the Commission's insurance requirements.

4. Mr. Weidburg testified that C & C has conducted some limited household moves but that, most moves were what he termed "local moves."<sup>2</sup> Thirty to forty percent of his business is interstate in nature.

5. Currently, a great portion of C & C's business is in the

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2. While it is not exactly clear where all of these moves were made to, many appeared to be outside the Myrtle Beach city limits within South Carolina.

Horry County/Murrell's Inlet areas. C & C conducts safety training on a monthly basis, including drug tests. According to the Commission's records, the Company has a "satisfactory" safety rating. Most of C & C's business derives from furniture customers who later wish to move and remember the service provided by C & C. The Company possesses a 1987 Mack truck and a 1983 Chevrolet box van with a full attic. Additionally, necessary dollies, blankets and hand trucks are owned by C & C. Mr. Weidburg stated that sometimes, like some national moving companies in the area, he uses employees from the local casual labor pool. If requests were made that C & C could not handle, Mr. Weidburg testified that he would rent equipment or refer the request to another moving company.

6. Ms. Irene Rousseau testified to her positive experience with C & C. She noted that the Company was more flexible than other established moving companies; its rates were more favorable than other companies; and the service rendered was commendable. She would recommend C & C's service to others.

7. David Nilson, President of Nilson Van & Storage testified that there was no need for an additional household goods mover in the Myrtle Beach area. Mr. Nilson testified to the state-wide operations of Nilson; its seven locations in South Carolina; its 225 full time employees; its \$2 million annual payroll, its 200 pieces of equipment; and its Myrtle Beach facilities. He expressed concern over the economic state of the Myrtle Beach area with the demise of the Air Force Base and the real estate slowdown. According to Mr. Nilson, his company needs to downsize in the area,

but has the capacity to meet the needs of its customers.

CONCLUSIONS OF LAW

1. The Applicant has not demonstrated that it is fit, willing, and able to provide Class E household goods service to points and places within South Carolina. The Applicant has, however, demonstrated that it is fit, willing and able to provide Class E household goods service between points and places in Horry and Georgetown Counties, and between points and places in these counties and points and places in South Carolina. Specifically, the Applicant has established that a majority of its business comes from serving customers in the Myrtle Beach and Murrell's Inlet areas, that it has no outstanding judgments against it, that it is familiar with the statutes and regulations governing for-hire motor carrier operations in South Carolina, and that it agrees to operate in compliance with these statutes and regulations. Additionally, the Applicant has demonstrated that it has the equipment which is necessary to provide Class E service and the appropriate insurance which will meet the Commission's requirements. Furthermore, the Applicant has established that it has ten years of experience in the transportation of household goods. Finally, the Applicant has demonstrated that it is willing to provide Class E service.

2. The Commission concludes that while Nilson suggested that the Myrtle Beach area household goods market did not need any new movers, the Commission finds that, in and of itself, increased competition that may result from the approval of C & C's Application is insufficient to defeat the Applicant's request for a

Certificate of Public Convenience and Necessity. Welch, supra.

IT IS THEREFORE ORDERED:

1. That the Application for Class E Certificate of Public Convenience and Necessity to transport Household Goods, as defined in R.103-211(14), between points and places in Horry and Georgetown Counties, and between points and places in these counties and points and places in South Carolina, is approved.

2. That the Applicant file the proper license fees and other information required by S.C. Code Ann. §58-23-10 et seq. (1976), and by 26 S.C. Regs. 103-100 through 103-208 (1976), within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

3. That upon compliance with S.C. Code Ann. §58-23-10, et seq. (1976), and the applicable provisions of 26 S.C. Regs. 103-100 through 103-280, a certificate shall be issued to the Applicant authorizing the motor carrier services granted herein.

4. That prior to compliance with such requirements and receipt of a certificate, the motor carrier services authorized herein may not be provided.

5. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)